

MESSAGE NO: 2163303 MESSAGE DATE: 06/11/2012

MESSAGE STATUS: Active CATEGORY: Countervailing
TYPE: OTH-Other PUBLIC ☒ NON-PUBLIC ☐
SUB-TYPE:

FR CITE: 77 FR 17439 FR CITE DATE: 03/26/2012

REFERENCE 2087303
MESSAGE #
(s):

CASE #(s): C-570-980

EFFECTIVE DATE: 12/27/2011 COURT CASE #:

PERIOD OF REVIEW: 01/01/2010 TO 12/31/2010

PERIOD COVERED: TO

Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: Third country case numbers in the countervailing duty investigation of crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (C-570-980)

1. ON 03/26/2012, THE DEPARTMENT OF COMMERCE (COMMERCE) PUBLISHED IN THE FEDERAL REGISTER (77 FR 17439) ITS AFFIRMATIVE PRELIMINARY COUNTERVAILING DUTY DETERMINATION IN THE COUNTERVAILING DUTY INVESTIGATION OF CRYSTALLINE SILICON PHOTOVOLTAIC CELLS, WHETHER OR NOT ASSEMBLED INTO MODULES, FROM THE PEOPLE'S REPUBLIC OF CHINA (PRC). THESE INSTRUCTIONS CLARIFY MESSAGE NO. 2087303, DATED 03/27/2012.

2. THE MERCHANDISE COVERED BY THIS INVESTIGATION IS CRYSTALLINE SILICON PHOTOVOLTAIC CELLS, AND MODULES, LAMINATES, AND PANELS, CONSISTING OF CRYSTALLINE SILICON PHOTOVOLTAIC CELLS, WHETHER OR NOT PARTIALLY OR FULLY ASSEMBLED INTO OTHER PRODUCTS, INCLUDING, BUT NOT LIMITED TO, MODULES, LAMINATES, PANELS AND BUILDING INTEGRATED MATERIALS.

THIS INVESTIGATION COVERS CRYSTALLINE SILICON PHOTOVOLTAIC CELLS OF THICKNESS EQUAL TO OR GREATER THAN 20 MICROMETERS, HAVING A P/N JUNCTION FORMED BY ANY MEANS, WHETHER OR NOT THE CELL HAS UNDERGONE OTHER PROCESSING, INCLUDING, BUT NOT LIMITED TO, CLEANING, ETCHING, COATING, AND/OR ADDITION OF MATERIALS (INCLUDING, BUT NOT LIMITED TO, METALLIZATION AND CONDUCTOR PATTERNS) TO COLLECT AND FORWARD THE ELECTRICITY THAT IS GENERATED BY THE CELL.

MERCHANDISE UNDER CONSIDERATION MAY BE DESCRIBED AT THE TIME OF IMPORTATION AS PARTS FOR FINAL FINISHED PRODUCTS THAT ARE ASSEMBLED AFTER IMPORTATION, INCLUDING, BUT NOT LIMITED TO, MODULES, LAMINATES, PANELS, BUILDING-INTEGRATED MODULES, BUILDING-INTEGRATED PANELS, OR OTHER FINISHED GOODS KITS. SUCH PARTS THAT OTHERWISE MEET THE DEFINITION OF MERCHANDISE UNDER CONSIDERATION ARE INCLUDED IN THE SCOPE OF THIS INVESTIGATION.

EXCLUDED FROM THE SCOPE OF THIS INVESTIGATION ARE THIN FILM PHOTOVOLTAIC PRODUCTS PRODUCED FROM AMORPHOUS SILICON (A-SI), CADMIUM TELLURIDE (CDTE), OR COPPER INDIUM GALLIUM SELENIDE (CIGS).

ALSO EXCLUDED FROM THE SCOPE OF THIS INVESTIGATION ARE CRYSTALLINE SILICON PHOTOVOLTAIC CELLS, NOT EXCEEDING 10,000MM² IN SURFACE AREA, THAT ARE PERMANENTLY INTEGRATED INTO A CONSUMER GOOD WHOSE FUNCTION IS OTHER THAN POWER GENERATION AND THAT CONSUMES THE ELECTRICITY GENERATED BY THE INTEGRATED CRYSTALLINE SILICON PHOTOVOLTAIC CELL. WHERE MORE THAN ONE CELL IS PERMANENTLY INTEGRATED INTO A CONSUMER GOOD, THE SURFACE AREA FOR PURPOSES OF THIS EXCLUSION SHALL BE THE TOTAL COMBINED SURFACE AREA OF ALL CELLS THAT ARE INTEGRATED INTO THE CONSUMER GOOD.

MODULES, LAMINATES, AND PANELS PRODUCED IN A THIRD-COUNTRY FROM CELLS PRODUCED IN THE PRC ARE COVERED BY THIS INVESTIGATION; HOWEVER, MODULES, LAMINATES, AND PANELS PRODUCED IN THE PRC FROM CELLS PRODUCED IN A THIRD-COUNTRY ARE NOT COVERED BY THIS INVESTIGATION.

MERCHANDISE COVERED BY THIS INVESTIGATION IS CURRENTLY CLASSIFIED IN THE HARMONIZED TARIFF SYSTEM OF THE UNITED STATES ("HTSUS") UNDER SUBHEADINGS 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, AND 8501.31.8000. THESE HTSUS SUBHEADINGS ARE PROVIDED FOR CONVENIENCE AND CUSTOMS PURPOSES; THE WRITTEN DESCRIPTION OF THE SCOPE OF THIS INVESTIGATION IS DISPOSITIVE.

3. AS NOTED IN PARAGRAPH 2, MODULES, LAMINATES, AND PANELS PRODUCED IN A THIRD-COUNTRY FROM SUBJECT CELLS PRODUCED IN THE PRC ARE COVERED BY THIS INVESTIGATION; HOWEVER, MODULES, LAMINATES, AND PANELS PRODUCED IN THE PRC FROM SOLAR CELLS PRODUCED IN A THIRD-COUNTRY ARE NOT COVERED BY THE SCOPE OF THIS INVESTIGATION. HOWEVER, IN ORDER FOR NO CASH DEPOSIT TO BE REQUIRED FOR PANELS/MODULES NOT CONTAINING SUBJECT SOLAR CELLS PRODUCED IN THE PRC, THE FOLLOWING CERTIFICATION AND DOCUMENTATION REQUIREMENTS MUST BE MET:

A. IMPORTERS OF PANELS/MODULES FROM ANY COUNTRY THAT DO NOT CONTAIN SUBJECT SOLAR CELLS PRODUCED IN THE PRC MUST MAINTAIN THE FOLLOWING CERTIFICATION, AS WELL AS DOCUMENTATION SUPPORTING THE CERTIFICATION:

IMPORTER CERTIFICATION

I HEREBY CERTIFY THAT I AM AN OFFICIAL OF (INSERT NAME OF COMPANY IMPORTING SOLAR PANELS/MODULES), THAT I HAVE KNOWLEDGE OF THE FACTS REGARDING THE IMPORTATION OF THE SOLAR PANELS/MODULES OR OTHER PRODUCTS CONTAINING SOLAR PANELS/MODULES THAT ENTERED UNDER ENTRY NUMBER(S) (INSERT ENTRY NUMBER(S) COVERED BY THE CERTIFICATION), AND THAT THESE SOLAR PANELS/MODULES DO NOT CONTAIN SOLAR CELLS PRODUCED IN THE PEOPLE'S REPUBLIC OF CHINA. BY SIGNING THIS CERTIFICATE, I ALSO HEREBY CERTIFY THAT (INSERT NAME OF COMPANY IMPORTING SOLAR PANELS/MODULES) MAINTAINS SUFFICIENT DOCUMENTATION SUPPORTING THIS CERTIFICATION FOR ALL SOLAR CELLS USED TO PRODUCE THE SOLAR PANELS/MODULES IMPORTED UNDER THE ABOVE-REFERENCED ENTRY NUMBER(S). I UNDERSTAND THAT AGENTS OF THE IMPORTER, SUCH AS BROKERS, ARE NOT PERMITTED TO MAKE THIS CERTIFICATION. ALSO, I AM AWARE THAT RECORDS PERTAINING TO THIS CERTIFICATION MAY BE REQUESTED BY CBP. I UNDERSTAND THAT THIS CERTIFICATION SHOULD BE COMPLETED AT THE TIME OF THE ENTRY. ALSO, I UNDERSTAND THAT FAILURE TO MAINTAIN THE REQUIRED CERTIFICATION OR FAILURE TO SUBSTANTIATE THE CLAIM THAT THE PANELS/MODULES DO NOT CONTAIN SOLAR CELLS PRODUCED IN THE PEOPLE'S REPUBLIC OF CHINA WILL RESULT IN SUSPENSION OF ALL UNLIQUIDATED ENTRIES FOR WHICH THESE REQUIREMENTS WERE NOT MET AND THE REQUIREMENT THAT THE IMPORTER POST AN AD CASH DEPOSIT OR, WHERE APPLICABLE, A BOND, ON THOSE ENTRIES EQUAL TO THE PRC-WIDE RATE IN EFFECT AT THE TIME OF THE ENTRY AND A CVD CASH DEPOSIT, OR WHERE APPLICABLE, A BOND RATE EQUAL TO THE ALL-OTHERS RATE IN EFFECT AT THE TIME OF THE ENTRY.

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B. IF AN EXPORTER OF PANELS/MODULES NOT CONTAINING SUBJECT SOLAR CELLS PRODUCED IN THE PRC IS LOCATED IN THE PRC, BOTH THE IMPORTER AND THE

EXPORTER MUST MAINTAIN THE FOLLOWING EXPORTER CERTIFICATION CERTIFYING THAT THE PANELS/MODULES DO NOT CONTAIN SOLAR CELLS PRODUCED IN THE PRC AS WELL AS DOCUMENTATION SUPPORTING THE CERTIFICATION:

EXPORTER CERTIFICATION

I HEREBY CERTIFY THAT I AM AN OFFICIAL OF (INSERT NAME OF COMPANY EXPORTING SOLAR PANELS/MODULES), THAT I HAVE KNOWLEDGE OF THE FACTS REGARDING THE EXPORTATION OF THE SOLAR PANELS/MODULES OR OTHER PRODUCTS CONTAINING SOLAR PANELS/MODULES IDENTIFIED BELOW, AND THAT THESE SOLAR PANELS/MODULES DO NOT CONTAIN SOLAR CELLS PRODUCED IN THE PEOPLE'S REPUBLIC OF CHINA. BY SIGNING THIS CERTIFICATE, I ALSO HEREBY CERTIFY THAT (INSERT NAME OF COMPANY EXPORTING SOLAR PANELS/MODULES) MAINTAINS SUFFICIENT DOCUMENTATION SUPPORTING THIS CERTIFICATION FOR ALL SOLAR CELLS USED TO PRODUCE THE SOLAR PANELS/MODULES IDENTIFIED BELOW. I AM AWARE THAT RECORDS PERTAINING TO THIS CERTIFICATION MAY BE SUBJECT TO VERIFICATION BY DEPARTMENT OF COMMERCE OFFICIALS AND I CONSENT TO VERIFICATION WITH RESPECT TO THIS CERTIFICATION AND THESE RECORDS. I UNDERSTAND THAT THIS CERTIFICATION SHOULD BE COMPLETED AT THE TIME OF SHIPMENT. I ALSO UNDERSTAND THAT FAILURE TO MAINTAIN THE REQUIRED CERTIFICATION OR FAILURE TO SUBSTANTIATE THE CLAIM THAT THE PANELS/MODULES DO NOT CONTAIN SOLAR CELLS PRODUCED IN THE PEOPLE'S REPUBLIC OF CHINA WILL RESULT IN SUSPENSION OF ALL UNLIQUIDATED ENTRIES FOR WHICH THESE REQUIREMENTS WERE NOT MET AND THE REQUIREMENT THAT THE IMPORTER POST AN AD CASH DEPOSIT OR, WHERE APPLICABLE, A BOND, ON THOSE ENTRIES EQUAL TO THE PRC-WIDE RATE IN EFFECT AT THE TIME OF THE ENTRY AND A CVD CASH DEPOSIT, OR WHERE APPLICABLE, A BOND RATE EQUAL TO THE ALL-OTHERS RATE IN EFFECT AT THE TIME OF THE ENTRY.

THE EXPORTS COVERED BY THIS CERTIFICATION ARE (INSERT INVOICE NUMBERS, PURCHASE ORDER NUMBERS, EXPORT DOCUMENTATION, ETC. TO IDENTIFY THE EXPORTS COVERED BY THE CERTIFICATION).

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4. THE IMPORTER AND PRC-EXPORTER CERTIFICATIONS AND SUPPORTING DOCUMENTATION MUST BE MAINTAINED BY THE PARTIES DESCRIBED ABOVE BUT WILL ONLY BE PROVIDED TO U.S. CUSTOMS AND BORDER PROTECTION (CBP) BY THE IMPORTER AT THE REQUEST OF CBP. THESE DOCUMENTS SHOULD NOT BE PROVIDED BY THE IMPORTER AS PART OF THE ENTRY DOCUMENT PACKAGE, UNLESS SPECIFICALLY REQUESTED BY CBP.

5. THE IMPORTER CERTIFICATION MUST BE COMPLETED, SIGNED, AND DATED AT THE TIME OF THE ENTRY OF THE PANELS/MODULES. THE EXPORTER CERTIFICATION MUST BE COMPLETED, SIGNED, AND DATED AT THE TIME OF SHIPMENT OF THE RELEVANT ENTRIES. FOR ENTRIES ON OR AFTER DECEMBER 27, 2011, BUT BEFORE MARCH 26, 2012, FOR WHICH CERTIFICATIONS ARE REQUIRED, IMPORTERS AND EXPORTERS SHOULD COMPLETE THE REQUIRED CERTIFICATION WITHIN 90 DAYS OF MARCH 26, 2012.

6. CBP MAY ACCEPT THE ABOVE CERTIFICATIONS (AND IF REQUIRED BY CBP, SUPPORTING DOCUMENTATION) TO ESTABLISH THAT THE MERCHANDISE IS NOT COVERED BY THE SCOPE OF THIS INVESTIGATION. IF THE IMPORTER DOES NOT PROVIDE THE AFOREMENTIONED REQUIRED CERTIFICATION OR DOCUMENTATION AT CBP'S REQUEST, CBP IS INSTRUCTED TO SUSPEND ALL UNLIQUIDATED ENTRIES FOR WHICH THE CERTIFICATION OR DOCUMENTATION REQUIREMENTS WERE NOT PROVIDED, AND REQUIRE THE POSTING OF A CASH DEPOSIT OR BOND ON THOSE ENTRIES EQUAL TO THE ALL OTHERS RATE IN EFFECT AT THE TIME OF ENTRY.

7. IF THE IMPORTED PANEL/MODULE CONTAINS SOME SUBJECT SOLAR CELLS PRODUCED IN THE PRC BUT THE IMPORTER IS UNABLE OR UNWILLING TO IDENTIFY THE TOTAL VALUE OF THE PANEL/MODULE THAT IS SUBJECT MERCHANDISE, CBP IS INSTRUCTED TO REQUIRE THE POSTING OF A CASH DEPOSIT OR BOND EQUAL TO THE ALL OTHERS RATE IN EFFECT AT THE TIME OF THE ENTRY ON THE TOTAL ENTERED VALUE OF THE PANEL/MODULE.

8. AS DISCUSSED IN PARAGRAPH 2 OF MESSAGE NO. 2087303, DATED 03/27/2012 AND PARAGRAPH 2 ABOVE, COMMERCE CONSIDERS MODULES, LAMINATES, AND PANELS PRODUCED IN A THIRD-COUNTRY FROM CELLS PRODUCED IN THE PRC TO BE COVERED BY THE SCOPE OF THIS INVESTIGATION. HOWEVER, MODULES, LAMINATES, AND PANELS PRODUCED IN THE PRC FROM CELLS PRODUCED IN A THIRD-COUNTRY ARE NOT COVERED BY THE SCOPE OF THIS INVESTIGATION. SINCE IMPORTERS MAY IMPORT MODULES, LAMINATES, AND PANELS PRODUCED IN A THIRD COUNTRY FROM SUBJECT SOLAR CELLS PRODUCED IN THE PRC, THIRD-COUNTRY CASE NUMBERS HAVE BEEN ESTABLISHED TO ALLOW SUCH MERCHANDISE TO BE PROPERLY CLAIMED AS SUBJECT MERCHANDISE UPON ENTRY. PARAGRAPH 9 PROVIDES A LIST OF THIRD COUNTRIES FOR WHICH WE HAVE ESTABLISHED CASE NUMBERS FOR MERCHANDISE COVERED BY THE SCOPE OF THIS INVESTIGATION.

9. THE FOLLOWING IS A LIST OF THIRD COUNTRIES AND THE CORRESPONDING CASE NUMBERS FOR MERCHANDISE FROM THOSE COUNTRIES THAT IS COVERED BY SCOPE OF THIS INVESTIGATION. THESE CASE NUMBERS HAVE BEEN ASSIGNED FOR COUNTERVAILING DUTY CUSTOMS PURPOSES.

COUNTRY : CASE NUMBER:

ARGENTINA C-357-989

AUSTRALIA C-602-989

AUSTRIA C-433-989

BELGIUM C-423-989

CANADA C-122-989

CROATIA C-479-989

CZECH REPUBLIC C-435-989

DENMARK C-409-989

FRANCE C-427-989

GERMANY C-428-989

HONG KONG C-582-989

HUNGARY C-437-989

INDIA C-533-989

ISRAEL C-508-989

ITALY C-475-989

JAPAN C-588-989

KOREA C-580-989

MALAYSIA C-557-989

MEXICO C-201-989

NETHERLANDS	C-421-989
NEW ZEALAND	C-614-989
NORWAY	C-403-989
PHILIPPINES	C-565-989
POLAND	C-455-989
PORTUGAL	C-471-989
RUSSIA	C-462-989
SINGAPOR	C-559-989
SPAIN	C-470-989
SWEDEN	C-401-989
SWITZERLAND	C-441-989
TAIWAN	C-583-989
THAILAND	C-549-989
TURKEY	C-489-989
UNITED KINGDOM	C-412-989
VIETNAM	C-552-989

THE LIST PROVIDED ABOVE IS NOT EXHAUSTIVE, AS ADDITIONAL COUNTRIES AND CORRESPONDING CASE NUMBERS MAY BE ADDED BASED ON CHANGES IN THE PATTERNS OF TRADE. IF CBP BECOMES AWARE OF ENTRIES OF SOLAR PANELS/MODULES WITHIN THE SCOPE OF THIS INVESTIGATION THAT WERE EXPORTED FROM A THIRD-COUNTRY THAT IS NOT IDENTIFIED ABOVE AND/OR IS NOT IN THE ACE CASE REFERENCE FILE, CBP SHOULD NOTIFY COMMERCE IMMEDIATELY ABOUT SUCH ENTRIES. IF IMPORTERS ARE ATTEMPTING TO IMPORT SOLAR PANELS/MODULES WITHIN THE SCOPE OF THIS INVESTIGATION THAT WERE EXPORTED FROM A THIRD-COUNTRY WITHOUT A THIRD-COUNTRY CASE NUMBER RELATED TO THIS INVESTIGATION, IMPORTERS SHOULD CONTACT THE PORT OF ENTRY IMMEDIATELY. CBP HEADQUARTERS SHOULD NOTIFY COMMERCE IMMEDIATELY ABOUT SUCH IMPORTS.

AS OF THE DATE OF THIS MESSAGE, THIRD-COUNTRY COMPANY-SPECIFIC CASE NUMBERS FOR THIS INVESTIGATION HAVE NOT BEEN ESTABLISHED, OTHER THAN THE CASE NUMBERS PERTAINING TO THIRD-COUNTRY "ALL OTHERS." IMPORTERS OF SUBJECT SOLAR PANELS/MODULES THAT WERE EXPORTED FROM THIRD-COUNTRIES WHO ATTEMPT TO ENTER THE PANELS/MODULES AT A COMPANY-SPECIFIC CASH DEPOSIT RATE LISTED IN MESSAGE NO. 2087303 WHICH HAS NOT BEEN ESTABLISHED FOR THE THIRD COUNTRY IN THE ACE CASE REFERENCE FILE SHOULD CONTACT THE

PORT OF ENTRY IMMEDIATELY. CBP HEADQUARTERS SHOULD NOTIFY COMMERCE IMMEDIATELY ABOUT SUCH IMPORTS.

10. FOR ENTRIES OF MODULES/PANELS PRODUCED IN A THIRD COUNTRY FROM SUBJECT SOLAR CELLS THAT WERE PRODUCED IN THE PRC, CBP SHALL SUSPEND LIQUIDATION OF SUCH MERCHANDISE, THAT IS ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION, ON OR AFTER 12/27/2011. EFFECTIVE 12/27/2011, CBP SHALL REQUIRE A CASH DEPOSIT FOR SUCH ENTRIES PURSUANT TO THE INSTRUCTIONS PROVIDED IN MESSAGE NO. 2087303

11. IF THERE ARE ANY QUESTIONS BY THE IMPORTING PUBLIC REGARDING THIS MESSAGE, PLEASE CONTACT THE CALL CENTER FOR THE OFFICE OF AD/CVD OPERATIONS, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE AT (202) 482-0984. CBP PORTS SHOULD SUBMIT THEIR INQUIRIES THROUGH AUTHORIZED CBP CHANNELS ONLY. (THIS MESSAGE WAS GENERATED BY O6:GC.)

12. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

MICHAEL B. WALSH

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party